



Rep. Sara Feigenholtz

Filed: 3/14/2011

09700HB3620ham001

LRB097 09237 JDS 52855 a

1 AMENDMENT TO HOUSE BILL 3620

2 AMENDMENT NO. _____. Amend House Bill 3620 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 3.135 as follows:

6 (415 ILCS 5/3.135) (was 415 ILCS 5/3.94)

7 Sec. 3.135. Coal combustion by-product; CCB.

8 (a) "Coal combustion by-product" (CCB) means coal
9 combustion waste when used beneficially in any of the following
10 ways:

11 (1) The extraction or recovery of material compounds
12 contained within CCB.

13 (2) The use of CCB as a raw ingredient or mineral
14 filler in the manufacture of the following commercial
15 products: cement; concrete and concrete mortars;
16 cementious products including block, pipe and

1 precast/prestressed components; asphalt or cementious
2 roofing products; plastic products including pipes and
3 fittings; paints and metal alloys; kiln fired products
4 including bricks, blocks, and tiles; abrasive media;
5 gypsum wallboard; asphaltic concrete, or asphalt based
6 paving material.

7 (3) CCB used (A) in accordance with the Illinois
8 Department of Transportation ("IDOT") standard
9 specifications and subsection (a-5) of this Section or (B)
10 under the approval of the Department of Transportation for
11 IDOT projects.

12 (4) Bottom ash used as antiskid material, athletic
13 tracks, or foot paths.

14 (5) Use in the stabilization or modification of soils
15 providing the CCB meets the IDOT specifications for soil
16 modifiers.

17 (6) CCB used as a functionally equivalent substitute
18 for agricultural lime as a soil conditioner.

19 (7) Bottom ash used in non-IDOT pavement sub-base or
20 base, pipe bedding, or foundation backfill.

21 (8) Structural fill, designed and constructed
22 according to ASTM standard E2277-03, when used in an
23 engineered application or combined with cement, sand, or
24 water to produce a controlled strength fill material and
25 covered with 12 inches of soil unless infiltration is
26 prevented by the material itself or other cover material.

1 (9) Mine subsidence, mine fire control, mine sealing,
2 and mine reclamation.

3 (a-5) Except to the extent that the uses are otherwise
4 authorized by law without such restrictions, the uses specified
5 in items (a)(3)(A) and (a)(7) through (9) shall be subject to
6 the following conditions:

7 (A) CCB shall not have been mixed with hazardous waste
8 prior to use.

9 (B) CCB shall not exceed Class I Groundwater Standards
10 for metals when tested utilizing test method ASTM D3987-85.
11 The sample or samples tested shall be representative of the
12 CCB being considered for use.

13 (C) Unless otherwise exempted, users of CCB for the
14 purposes described in items (a)(3)(A) and (a)(7) through
15 (9) of this Section shall provide notification to the
16 Agency for each project utilizing CCB documenting the
17 quantity of CCB utilized and certification of compliance
18 with conditions (A) and (B) of this subsection.
19 Notification shall not be required for users of CCB for
20 purposes described in items (a)(1), (a)(2), (a)(3)(B),
21 (a)(4), (a)(5) and (a)(6) of this Section, or as required
22 specifically under a beneficial use determination as
23 provided under this Section, or pavement base, parking lot
24 base, or building base projects utilizing less than 10,000
25 tons, flowable fill/grout projects utilizing less than
26 1,000 cubic yards or other applications utilizing less than

1 100 tons.

2 (D) Fly ash shall be managed in a manner that minimizes
3 the generation of airborne particles and dust using
4 techniques such as moisture conditioning, granulating,
5 inground application, or other demonstrated method.

6 (E) CCB is not to be accumulated speculatively. CCB is
7 not accumulated speculatively if during the calendar year,
8 the CCB used is equal to 75% of the CCB by weight or volume
9 accumulated at the beginning of the period.

10 (F) CCB shall include any prescribed mixture of fly
11 ash, bottom ash, boiler slag, flue gas desulfurization
12 scrubber sludge, fluidized bed combustion ash, and stoker
13 boiler ash and shall be tested as intended for use.

14 (b) To encourage and promote the utilization of CCB in
15 productive and beneficial applications, upon request by the
16 applicant, the Agency shall make a written beneficial use
17 determination that coal-combustion waste is CCB when used in a
18 manner other than those uses specified in subsection (a) of
19 this Section if the applicant demonstrates that use of the
20 coal-combustion waste satisfies all of the following criteria:
21 the use will not cause, threaten, or allow the discharge of any
22 contaminant into the environment; the use will otherwise
23 protect human health and safety and the environment; and the
24 use constitutes a legitimate use of the coal-combustion waste
25 as an ingredient or raw material that is an effective
26 substitute for an analogous ingredient or raw material.

1 The Agency's beneficial use determinations may allow the
2 uses set forth in items (a)(3)(A) and (a)(7) through (9) of
3 this Section without the CCB being subject to the restrictions
4 set forth in subdivisions (a-5)(B) and (a-5)(E) of this
5 Section.

6 Within 90 days after the receipt of an application for a
7 beneficial use determination under this subsection (b), the
8 Agency shall, in writing, approve, disapprove, or approve with
9 conditions the beneficial use. Any disapproval or approval with
10 conditions shall include the Agency's reasons for the
11 disapproval or conditions. Failure of the Agency to issue a
12 decision within 90 days shall constitute disapproval of the
13 beneficial use request. These beneficial use determinations
14 are subject to review under Section 40 of this Act.

15 Any approval of a beneficial use under this subsection (b)
16 shall become effective upon the date of the Agency's written
17 decision and remain in effect for a period of 5 years. If an
18 applicant desires to continue a beneficial use after the
19 expiration of the 5-year period, the applicant must submit an
20 application for renewal no later than 90 days prior to the
21 expiration. The beneficial use approval shall be automatically
22 extended unless denied by the Agency in writing with the
23 Agency's reasons for disapproval, or unless the Agency has
24 requested an extension for review, in which case the use will
25 continue to be allowed until an Agency determination is made.

26 Coal-combustion waste for which a beneficial use is

1 approved pursuant to this subsection (b) shall be considered
2 CCB during the effective period of the approval, as long as it
3 is used in accordance with the approval and any conditions.

4 Notwithstanding the other provisions of this subsection
5 (b), written beneficial use determination applications for the
6 use of CCB at sites governed by the federal Surface Mining
7 Control and Reclamation Act of 1977 (P.L. 95-87) or the rules
8 and regulations thereunder, or by any law or rule or regulation
9 adopted by the State of Illinois pursuant thereto, shall be
10 reviewed and approved by the Office of Mines and Minerals
11 within the Department of Natural Resources pursuant to 62 Ill.
12 Adm. Code §§ 1700-1850. Further, appeals of those
13 determinations shall be made pursuant to the Illinois
14 Administrative Review Law.

15 The Board shall adopt rules establishing standards and
16 procedures for the Agency's issuance of beneficial use
17 determinations under this subsection (b). The Board rules may
18 also, but are not required to, include standards and procedures
19 for the revocation of the beneficial use determinations. Prior
20 to the effective date of Board rules adopted under this
21 subsection (b), the Agency is authorized to make beneficial use
22 determinations in accordance with this subsection (b).

23 The Agency is authorized to prepare and distribute guidance
24 documents relating to its administration of this Section.
25 Guidance documents prepared under this subsection are not rules
26 for the purposes of the Illinois Administrative Procedure Act.

1 (Source: P.A. 94-66, eff. 1-1-06.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".